

DOCKET NO. 2002-126-C - ORDER NO. 2002-493

IN RE: Joint Application of LecStar Telecom, Inc.
 and NuVox Communications, Inc. for
 Approval of an Asset Purchase Agreement.

) ORDER GRANTING
) MOTION FOR
) EXPEDITED REVIEW
) AND APPROVING
) ASSET PURCHASE
) AGREEMENT

LecStar is a Georgia corporation with corporate offices located in Atlanta, Georgia, and is a wholly owned subsidiary of LecStar Corporation, a publicly held Texas corporation. LecStar is a competitive provider of local and interexchange services. LecStar is a certificated local and interexchange service provider in this State having received certification to provide local and long distance telecommunications services in

Docket No. 1999-443-C, Order No. 2000-187, dated February 25, 2000, as amended by Order No. 2000-838, dated October 11, 2000.

NuVox is a privately held South Carolina corporation with its principal offices located in Chesterfield, Missouri. NuVox is a certificated local exchange and long distance service provider in this State having received its certification in Docket No. 98-129-C, Order No. 98-395, dated May 29, 1998, as modified by Order No. 99-267, dated April 12, 1999; Order No. 99-268, dated April 12, 1999; Order No. 99-591, dated August 19, 1999; and Order No. 2001-758, dated August 16, 2001.

According to the record, the Applicants propose a transaction which will accomplish the following:

- a. NuVox shall sell, transfer and assign to LecStar all of NuVox's right, title and interest in and to NuVox's residential local and long distance telecommunications assets, as defined in the Agreement;
- b. In consideration for the above transfer and sale of assets, LecStar will pay to NuVox the purchase price as set forth in the Agreement; and
- c. Following the transaction, NuVox will continue to provide telecommunications services to its business customers, pursuant to the authority granted in this State.

The Applicants respectfully request the Commission approve the proposed Agreement, the contemplated asset purchase transaction, and the transfer of NuVox's current residential local and long distance customer accounts to LecStar.

By letter dated April 29, 2002, the Commission's Executive Director instructed the Applicants to publish a prepared Notice of Filing in newspapers of general circulation in the areas affected by the Application. The purpose of the Notice of Filing was to provide notice of the Application to any interested parties and to advise interested parties

of the manner and time in which to file pleadings to participate in the docket. The Applicants filed Affidavits of Publication as proof that it had complied with the instructions of the Executive Director. No Petitions to Intervene, letters of protest, or comments were received by the Commission with regard to the instant Application.

MOTION FOR EXPEDITED REVIEW

As part of its Application, the Applicants requested expedited review and disposition of the Application in order that the Applicants could consolidate their respective operations as soon as possible. In furtherance of their request for expedited review, the Applicants filed verified testimony about the transaction with the Application. Once the return date expired with no intervention or opposition, the Commission Staff brought the matter to the Commission for consideration.

Upon consideration of the Applicants' request for expedited review, the Commission finds that expedited review should be granted. By their request, the Applicants waive their right to a formal hearing. The Commission finds that notice of the Application was properly afforded to the public and that no interested person sought to become a party to the proceeding. The Commission finds that procedural due process was afforded in this matter and further finds that the Applicants make a knowing waiver of a formal hearing. Therefore, the Commission will consider the Application in the context of its regularly scheduled weekly meeting, with court reporter present, and for purposes of the expedited review, the Commission will deem the examination of the Application and verified testimony during the course of the Commission's regularly scheduled meeting with court reporter present as a hearing on this matter.

EXAMINATION OF THE APPLICATION AND VERIFIED TESTIMONY

By its Application, LecStar proposes to acquire the telecommunications assets of NuVox, comprising only the residential local and long distance customers of NuVox located in BellSouth Telecommunications, Inc.'s service territory. No business customers of NuVox will be affected. In support of the Application, Applicants filed the verified testimony of Michael E. Britt, President, LecStar Telecom, Inc.

In his testimony, Mr. Britt describes the proposed Asset Purchase Agreement between LecStar and NuVox. In the proposed Asset Purchase Agreement, NuVox will sell, transfer and assign to LecStar all of NuVox's right, title and interest in and to NuVox's residential local and long distance telecommunications assets. LecStar will pay NuVox the purchase price set forth in the Asset Purchase Agreement in consideration for the transfer of assets. According to Mr. Britt, following the transaction, NuVox will continue to provide telecommunications services to its business customers, pursuant to the authority previously granted in this State, and LecStar will continue to serve all current residential customer accounts of NuVox pursuant to LecStar's present certification granted in this State.

In regards to the public interest considerations, the record and the testimony of Mr. Britt reveal that the customers of NuVox will be given the opportunity to switch their service from NuVox to a substantially similar product offering of LecStar or choose a different carrier. The notification to NuVox customers of the proposed transaction will be via bill inserts. A sample copy of the bill insert is attached as Exhibit C to the Application. The customers of NuVox who choose to switch their service to LecStar will

be transferred and LecStar will continue to service these customers under its current operating authority. Mr. Britt also testified regarding the benefit affected customers will receive from the proposed transaction. According to the testimony, the proposed transaction will enhance the operating efficiencies of LecStar by creating a larger corporation whereby LecStar can service the transferred customers in a more efficient manner. Mr. Britt also testified that LecStar may benefit from the economies of scale, and receive discounts on quantity ordering of materials and services, which may allow services to be provided at even more competitive rates in this state for the present and future customers of the Applicants. Other reasons the record reveals that the proposed transfer of accounts will serve the public interests are as follows: the transfer of accounts will increase the appeal to present and potential customers because of LecStar's greater variety of service offerings and market visibility; the proposed transfer of accounts will result in cost savings as a result of discounts on quantity ordering of underlying services; a heightened level of operating efficiency will be created to generally serve to enhance the overall capacity of LecStar to compete in the marketplace and to provide telecommunications services for a greater number of consumers of South Carolina at competitive rates; and LecStar will possess a greater customer account base and thus will be a stronger carrier able to provide a higher quality and variety of services to all customers of both LecStar and NuVox.

Concerning the managerial, technical and financial qualifications, the record and the testimony of Mr. Britt reveal that LecStar is well-qualified to consummate the proposed transaction, and current financial data for LecStar is provided as Exhibit B to

the Application. According to the record, the technical, managerial and financial personnel of NuVox will assist with the transition and integration of the acquired assets for a designated period following the transaction. Mr. Britt states that there will be no change in the technical, managerial and financial personnel of LecStar and that LecStar will serve the new NuVox customers with the same high level of expertise which presently operates the corporation.

According to the Application, Commission approval of the proposed Agreement will be beneficial to the involved companies as well as their customers, and will not be detrimental to the public interests of South Carolina. Additionally, no party to the Agreement will be given undue advantage over any other party.

Upon review and consideration of the Application, the verified testimony of Mr. Britt, and the applicable law, the Commission hereby issues its findings of fact:

FINDINGS OF FACT

1. LecStar is a Georgia corporation with its principal offices in Atlanta, Georgia, and is a wholly owned subsidiary of LecStar Corporation, a publicly held Texas Corporation and was granted a Certificate of Public Convenience and Necessity to provide telecommunications services within the State of South Carolina on February 25, 2000, by Order No. 2000-187 (Docket No. 1999-443-C), as amended by Order No. 2000-838, dated October 11, 2000.

2. NuVox is a privately held South Carolina corporation with its principal offices in Chesterfield, Missouri and was granted a Certificate of Public Convenience and Necessity to provide telecommunications services within the State of South Carolina on

May 29, 1998, by Order No. 98-395 (Docket No. 98-129-C), as modified by Order Nos. 99-267 and 99-268, dated April 12, 1999, Order No. 1999-591, dated August 19, 1999; and Order No. 2001-758, dated August 16, 2001.

3. The proposed transaction of the purchase by LecStar of certain telecommunications assets of NuVox will only include the residential local and long distance customers of NuVox located in the BellSouth service territory. Following the transaction, NuVox will continue to provide telecommunications services to its business customers pursuant to its present authority granted in South Carolina. Under the proposed transaction, there will be no change to the technical, managerial or financial personnel of LecStar that are currently in place.

4. The Commission finds that the proposed transaction to transfer and consolidate the residential customers of NuVox to LecStar, as described in the Application and verified testimony, will not adversely affect LecStar customers in South Carolina nor will the transaction adversely affect the provision of telecommunications services in South Carolina.

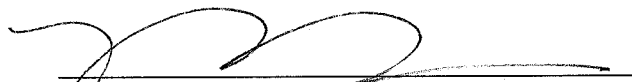
5. The Commission finds that the proposed transaction is in the public interest as it will enhance LecStar's operating efficiencies. The efficiencies LecStar gains as a result of the proposed asset purchase will afford LecStar the opportunity to remain competitive in the marketplace and provide telecommunications services in South Carolina at competitive rates.

Based on the above Findings of Fact, the Commission hereby determines that the Application filed by LecStar and NuVox requesting Commission approval of a Asset Purchase Agreement will not adversely affect the public interest nor will the conversion adversely affect the provision of telecommunications services in South Carolina, and therefore, the Commission approves the requested asset transfer.

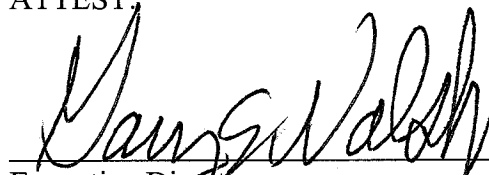
IT IS THEREFORE ORDERED THAT:

1. The Joint Application of LecStar Telecom, Inc. and NuVox Communications, Inc. for approval of the Asset Purchase Agreement is hereby approved.
2. This Order shall remain in full force and effect until further Order of the Commission.

BY ORDER OF THE COMMISSION:


Chairman

ATTEST:


Executive Director

(SEAL)